# **State of Wyoming**



# **Department of Health**

## Rules and Regulations for Provision of Substance Abuse Services to the Criminal Justice Population

**Chapter 17** 

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# State of Wyoming Department of Health

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### Table of Contents

Section 1.	Authority
Section 2.	Purpose
Section 3.	General Provisions
Section 4.	Definitions
Section 5.	Application for Certification
Section 6.	Contract Requirements for Substance Abuse Services 17 - 9
Section 7.	General Requirements for Treatment Programs 17 - 11
Section 8.	Misdemeanor Criminal Offenders
Section 9.	Felony Criminal Offenders
Section 10.	Payment Provisions for Services

# RULES AND REGULATIONS FOR PROVISION OF SUBSTANCE ABUSE SERVICES TO THE CRIMINAL JUSTICE POPULATION

#### CHAPTER 17

Section 1. <u>Authority</u>. These rules are promulgated by the Department of Health pursuant to W.S. § 9-2-2701 and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.* to establish standards for certifying community programs providing substance abuse and other related services to criminal offenders and specifically meeting the requirements of the Addicted Offenders Accountability Act (hereinafter AOAA) at W.S.§ 7-13-1301. *et seq.* 

#### Section 2. <u>Purpose</u>.

- (a) These rules are intended to supercede Section 16. (f) (i-iii) of the State of Wyoming Department of Health "Rules and Regulations for Substance Abuse Standards" dated December 16, 2002 and meet the requirements of the Addicted Offenders Accountability Act. The act provides judges with a sentencing option that includes substance abuse treatment for persons convicted under W.S. § 31-5-233(e) (DUI) and qualified offenders. The act requires that courts refer offenders to community programs that have been certified under the rules adopted by the Department of Health specifically for the purposes of providing treatment and related services to criminal offenders. Because the AOAA becomes effective on July 1, 2003, one year before requiring programs to be certified under Chapter 16 of the Rules and Regulations for Substance Abuse Standards, it is necessary to promulgate these rules so that community programs can be certified for the purposes of the AOAA by the July 1, 2003 effective date.
- (b) The Department may issues manuals, bulletins, or both, to interpret the provisions of this chapter. Such manuals and bulletins shall be consistent with and reflect the policies contained in this chapter. The provisions contained in manuals or bulletins shall be subordinate to the provisions of this chapter.
- Section 3. <u>General Provisions</u>. The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this chapter.
- Section 4. <u>Definitions</u>. The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules gender pronouns are used interchangeably except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.
- (a) "Adequate Treatment Alternative" is a community program certified under rules adopted by the Department of Health for purposes of providing substance abuse and other related services to criminal offenders. The program shall provide the level of services required of the offender being referred, be certified by the Department of Health to treat the criminal justice population and shall include protections, including psychological testing and frequent chemical drug testing that can be reasonably relied upon to protect the public safety and to hold the offender accountable.

- (b) "Admission" means the specific tasks necessary to admit a person to a substance abuse treatment service, such as completion of admission forms, notification of patient/client rights and confidentiality regulations, explanation of the general nature and goals of the service, review of the intake policies and procedures of the service provider followed by a formal orientation to the service structure.
- (c) "Appropriate Placement" refers to the severity of disorder and degree of motivation being matched with the intensity of service clinically indicated, in the least restrictive service setting possible that is designed to achieve patient/client clinical stabilization unless that level of service is not reasonably available.
- (d) "Approved placement criteria" means ASAM PPC 2, or the current version thereof or similar placement criteria approved by the Department.
- (e) "ASAM placement criteria" means the current edition/set of placement criteria for substance abuse patient/clients published by the American Society of Addiction Medicine.
- (f) "ASI" means the current version of the Addiction Severity Index published by the Treatment Research Institute. The ASI is an instrument commonly used to assess the severity of a person's addiction in seven domains which include general information, medical, employment, drug and alcohol use, legal, family/social and psychiatric issues.
- (g) "Assessment" means the process and procedures by which a service provider identifies and evaluates an individual's strengths, weaknesses, problems, and needs in order to determine the need for primary treatment services that leads to an individualized treatment plan.
- (h) "Best practices" means intentional methods, procedures, or systems that produce consistent, cost-effective prevention or treatment outcomes, which have been validated in replicated randomized control group studies or high quality time series studies, published or reported in reputable scholarly sources. In the absence of high quality research studies, the term may be construed to include a practice selected on the basis of the consensus of prevailing scientific opinion as set forth in W.S. § 9-2-2702(a)(I).
- (i) "Case Management" means the activities guided by the client's treatment plan which bring services, agencies, resources, and people together within a planned framework of action toward the achievement of established treatment goals.
- (j) "Certification" shall mean the Department formally recognizes the program, provider, or facility as having met all of the requirements of these rules that pertain to specific substance abuse treatment services provided.
- (k) "Community facility or program" means a community based or community-oriented facility or program which is operated either by a unit of local government or by a nongovernmental agency which provides substance abuse treatment and other necessary programs, services and monitoring to aid offenders in obtaining and holding regular employment, in enrolling in and maintaining academic courses or participating in vocational training programs, in utilizing the resources of the community in meeting their personal and family needs and in participating in other specialized treatment programs existing within the state. These services may be provided directly or through referrals to other programs.

- (I) "Convicted" means an unvacated determination of guilt by any court having legal jurisdiction of the offense and from which no appeal is pending and includes pleas of guilty and nolo contendere. For purposes of W.S. § 7-13-1302 only, "convicted" shall include dispositions pursuant to W.S. § 7-13-301, 7-13-302(a), 35-7-1037 or deferred prosecutions when ordered. Otherwise for purposes of the Addicted Offender Accountability Act, "convicted" shall not include dispositions pursuant to W.S. § 7-13-301, 7-3-302(a), 35-7-1037 or deferred prosecutions.
- (m) "Clinical supervision" means intermittent face-to-face contact, provided on or off the site of a service, between a clinical supervisor and treatment staff to ensure that each patient/client has an individualized treatment plan and is receiving quality care.
- (n) "Clinical supervisor" means a Wyoming Mental Health Professions Licensing Board qualified clinical supervisor as defined in W.S. § 33-38-102 (a)(xiii) or nurse, psychologist or physician when practicing within the scope of his or her license and competency.
- (o) "Consultation" means discussing the aspects of the individual patient/client's circumstance with other persons, programs, or agencies to assure comprehensive and quality care for the patient/client, consistent with the objectives in the patient/client's treatment plan or for purposes of making adjustments to the treatment plan.
- (p) "Continuing care" means a course of treatment identified in a treatment plan designed to support the process of recovery and provided at a frequency sufficient to maintain recovery.
- (q) "Co-occurring disorder(s)" means that an individual has at least one psychiatric disorder as well as an alcohol or drug use disorder.
- (r) "Crisis intervention" means services that respond to a patient/client's needs during acute episodes that may involve physical distress, imminent relapse, and/or danger to self or others.
- (s) "Cross-training" means acquisition of skills, to implement or use prevention, intervention, or treatment procedures from different roles, disciplines, or perspectives with the intent of improving overall, effective treatment or prevention outcomes. Cross training does not include the acquisition of licensure in another discipline.
- (t) "Cultural diversity" "cultural competency" or similar terms, when used in these rules, shall mean a set of academic and personal skills promoting an understanding and applicability to persons served or in need of services including considerations of race, gender, religion, sexual orientation, language, ancestry, national origin, medical condition, physical or mental ability and disability, and other individual characteristics that may impact the effectiveness of services.
- (u) "Day treatment service" means a medically monitored and structured nonresidential treatment service consisting of regularly scheduled sessions of various modalities such as counseling, case management, group or individual therapy, medical services, and mental health services, as indicated, by interdisciplinary providers for a scheduled number of sessions per day and week.

- (v) "Department" unless otherwise made clear in the context of its usage, means the Wyoming Department of Health, Substance Abuse Division.
- (w) "Detoxification plan" means a planned procedure based on clinical/medical findings for managing or monitoring withdrawal from alcohol or other drugs.
- (x) "Detoxification service" means a process of withdrawing a person from a specific psychoactive substance in a safe and effective manner.
- (y) "Discharge planning" means planning and coordination of treatment and social services associated with the patient/client's discharge from treatment, including the preparation of a discharge or transfer summary.
- (z) "DSM" means the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association. References in these rules to "DSM" may be construed to mean the current edition of the International Classification of Diseases (ICED-9) when appropriate.
- (aa) "Early intervention" means activities that take place with high-risk individuals, families, or populations with the goal of averting or interrupting the progression of problems associated with substance use or abuse.
- (bb) *"Felony"* means a criminal offense for which the penalty authorized by law includes imprisonment in a state penal institution for more than one (1) year.
- (cc) *"First priority for services"* means that an individual assessed as needing services will be referred immediately to available treatment resources.
- (dd) "Follow-up" means a process used by a treatment provider that will periodically assess the progress of a patient/client who has completed treatment.
- (ee) "Group counseling" means the application of formal therapeutic techniques involving interaction among members of a group of patients/clients.
- (ff) "Incapacitated person" means a person who, as a result of the use of alcohol or other drugs, has his or her judgment so impaired that he or she is incapable of making a rational decision.
  - (gg) "HIPAA" means the Health Insurance Portability and Accountability Act.
- (hh) "Intervention" means a process of interrupting an action or a behavior harmful to treatment progress and recovery.
- (ii) "Level of care" means setting, intensity, and frequency of services provided by a service provider and determined through the use of scientifically validated assessment tools.
- (jj) "Licensed practical nurse" means a person who is licensed as a licensed practical nurse under W.S. § 33-21-119, et seq.

- (kk) "Licensed clinical staff person" or "clinical staff" means all persons licensed and certified by a State of Wyoming professional licensing board and practicing within the scope of their license and competency.
- (II) "Medical personnel" means a licensed physician, a physician assistant, nurse practitioner, registered nurse, or licensed practical nurse.
- (mm) "Medical screening" means the examination conducted by medical personnel of a person to assess medical needs.
- (nn) "Medical supervision" means regular coordination, direction, and inspection by a physician of an individual's exercise of delegation to deliver medical services when the individual is not licensed to administer medical services.
- (oo) "Medically directed" means the carrying out of standing orders under the supervision of a physician for delivering the medical aspects of a service, including review and consultation provided to treatment staff in regard to the admission, treatment, transfer, and discharge of patients/clients.
- (pp) "Medically managed services" means services provided or directly managed by a physician.
- (qq) "Medically/clinically monitored residential detoxification service" means a twenty-four (24) hour per day service in a residential setting providing detoxification service and monitoring, with care provided by a multi-disciplinary team of service personnel including twenty-four (24) hour nursing care under the supervision of a physician.
- (rr) "Medically monitored services" means services provided under the direction and supervision of a physician. The physician may or may not directly administer care to the patient/client.
- (ss) "Medically monitored treatment service" means a community residential or hospital based, twenty-four (24) hour treatment service that provides a minimum of thirty-five (35) hours of individual and group counseling per patient/client per week, including observation, and monitoring provided by a multi-disciplinary staff under the supervision of a physician.
- (tt) "Mental health professional" means persons qualified by training or cross training to diagnose mental disorders when practicing within the scope of their competency and license.
- (uu) "Mental disorder" means a condition listed in current APA Diagnostic Statistical Manual (DSM) or ICD-9.
  - (vv) "Misdemeanor" means a criminal offense that is not a felony.
- (ww) "Nurse practitioner" means a person licensed to practice under W.S. § 33-21-119, et seq.
- (xx) "Outpatient treatment service" means a non-residential treatment service that provides a variety of assessment, evaluation, diagnostic, intervention, crisis, and counseling services relating to positive living skills and substance abuse.

- (yy) "Patient/client" means an individual who is receiving substance abuse treatment services. The terms "patient" and "client" are sometimes used interchangeably.
- (zz) "Patient/client and family education" means the providing of information to a patient/client, and, as appropriate, to the patient/client's family concerning the effects of the abuse of alcohol or use of tobacco in any form and the use of other substances, the dynamics of abuse and dependency on the individual/family, and available service options.
- (aaa) "Patient/client survey" means a written questionnaire to be completed by an individual who has participated in a substance abuse service to assess the individual's perception of the effectiveness of the service provider in meeting his or her needs.
- (bbb) "Physician" or "service physician" means a person licensed to practice medicine, who is certified in addiction medicine by the American Society of Addiction Medicine, certified in addiction psychiatry by the American Board of Psychiatry and Neurology, or otherwise knowledgeable in the practice of addiction medicine.
- (ccc) "Placement criteria summary" means documentation that includes the interviewer's clinical dimensional analysis of patient/client need.
- (ddd) "Provider" shall mean any person, organization, or entity applying for or receiving state funds or court referrals for the purposes of providing or offering substance abuse and other related services to criminal offenders.
- (eee) "Psychological Testing" means the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning.
- (fff) "Qualified Offender" means a person convicted of a felony whom the court finds has a need for alcohol or other drug treatment.
- (ggg) "Qualified person" means any person qualified under applicable law or professional requirement where they exist to perform any function authorized under these rules. Where professional qualifications are not imposed under other law, these rules may permit persons to act as specifically authorized herein.
- (hhh) "Referral" means the establishment of a link between a patient/client and another service by providing patient/client authorized documentation to the other service provider of the patient/client's needs and recommendations for treatment services, and includes follow-up as to the disposition of the recommendations.
- (iii) "Registered nurse" means a person who is licensed as a registered nurse under W.S. § 33-21-119, et. seq.
- (jjj) *"Relapse prevention"* means services designed to support the recovery of the individual in order to reduce and prevent recurrence of alcohol or other drug use.
- (kkk) "Service provider" or "provider" or "program" means a structured service delivery system for providing substance abuse prevention, intervention, or treatment services. The terms are sometimes used interchangeably.

- (III) "Substance abuse assessment" means an evaluation conducted by a qualified person using practices and procedures approved by the Department of Health to determine whether a person has a need for alcohol or other drug treatment and the level of treatment services required to treat that person.
- (mmm) "Substance abuse services" or "services" shall include prevention, early intervention, or treatment services unless the context in which the term is used clearly indicates a more restrictive application.
- (nnn) "Staff development" means activities designed to improve staff competency and job performance, which includes continued or cross training that employs learning activities to develop, promote, and evolve research-based practices in the areas of knowledge, skills, and attitudes aimed at changing behaviors to enhance or improve job performance.
- (ooo) "Staffing" means a regularly scheduled review of a patient/client's treatment goals that involve the patient/client's assigned primary clinical staff person and other persons involved in the implementation of the treatment plan.
- (ppp) "Substance use disorder" means the existence of a diagnosis of "substance abuse," "substance dependence," or a "not otherwise specified substance abuse related disorder" listed in the current edition of DSM or ICED-9.
- (qqq) "Transfer" means the change of a patient/client from one level of care to another. The change may take place at the same location or by physically moving the patient/client to a different service setting for the new level of care.
- (rrr) *"Transitional residential treatment service"* means a clinically supervised, peer-supported therapeutic environment with clinical involvement.
- (sss) "Treatment" means the planned provision of best practices therapeutic services that are culturally competent to assist the patient/client in achieving the goals of their treatment plan.
- (ttt) "Treatment plan" or "plan" means identified goals, objectives and resources, and activities agreed upon by the patient/client, and the primary clinical staff person to be utilized in facilitation of the patient/client's recovery.
- (uuu) "Violent felony" means murder, manslaughter, kidnapping, sexual assault in the first or second degree, robbery, aggravated assault, aircraft hijacking, arson in the first or second degree or aggravated burglary.
- (vvv) "Wyoming Administrative Procedure Act" shall mean W.S. § 16-3-101, et seq.

#### Section 5. Application for Certification.

- (a) Any program, provider, or facility seeking certification under these rules shall apply to the Department for certification on a form provided by the Department.
- (b) Upon receipt of a completed application, the Department shall review the application for compliance with these rules. The review may include an on-site inspection.

Within thirty (30) calendar days after receiving the completed application, the Department shall either approve or deny the application. Failure by the Department to meet this deadline shall not be construed as approval of the application.

- (c) An application may be approved subject to conditions, provided those conditions are fully set forth in the letter communicating the conditional approval. In the event an application is approved subject to conditions, the applicant must communicate its plans for complying with the conditions within fifteen (15) calendar days of receiving the notification. If the applicant is unwilling to comply with the conditions, the application shall be deemed denied.
- (d) If the application is denied, the Department shall give the applicant written reasons for the denial and shall inform the applicant of its right to appeal. Requests for appeal shall be made to the Department in writing no later than thirty (30) calendar days following the receipt of a notice of denial and shall be conducted pursuant to the Wyoming Administrative Procedure Act, W.S. § 16-3-101, et seq.
- (e) Duration/Renewal. The Department may issue an interim certification under these rules for any period not beyond June 30, 2004. The certification shall remain in effect for the period designated unless suspended or revoked prior to expiration.
  - (f) Denial/Suspension/Revocation.
- (i) The Department may deny an application to issue a certification if an applicant fails to meet all of the requirements of these rules and may refuse to renew the certification if the applicant no longer meets or has violated any provision of these rules.
- (ii) The Department may at any time upon written notification to a certificated program, provider, or facility, suspend or revoke the certification of a community program if the Department finds that the provider does not comply with these rules. The notice shall state the reasons for the action and shall inform the certificate holder of actions necessary to remedy the failures and of their right to a hearing under the Wyoming Administrative Procedure Act. In addition to revoking or suspending a certification, the Department may, in its discretion, place a program on probation under a written correction plan.
- (iii) In the event that a certification is suspended or revoked, notice shall be provided promptly to all courts that may refer persons to that program. Notice of final disposition of the matter shall also be promptly provided to those courts.
- (g) Appeals. If the Department denies, refuses to renew, suspends, or revokes a certification, the aggrieved party may request an administrative hearing under the Wyoming Administrative Procedure Act. The Department within thirty (30) calendar days of the action taken must receive a request for a hearing. If a timely request for hearing is not received by the Department, no hearing is available. If a timely request for hearing is received, the action is stayed pending a decision on the appeal except where the Department finds in writing that the health, safety, or welfare of patients/clients requires that the action take effect immediately.

#### Section 6. <u>Contract Requirements for Substance Abuse Services.</u>

- (a) Eligibility for Contracts. Any community program providing substance abuse and other related services to criminal offenders may apply to the Department for available funds to provide substance abuse treatment services to the criminal justice population.
- (b) Preference. Those entities with which the Department contracted for substance abuse services in the year prior to the promulgation of these rules shall have a preference for initial contracts entered under these rules. The preference granted herein is intended only to extend to those specific services covered under the contract between the Department and the contractor prior to these rules. Further, the preference shall apply only to those services for which the contractor is otherwise certified to provide under these rules. Notwithstanding any preference, all contractors are subject to suspension or revocation of certification for failure to comply with these rules.
- (c) Continuum of Services. It is the objective of the Department to provide access to a continuum of treatment services. Accordingly, the Department may contract with one or more applicants in a county or other geographic area in order to meet that objective.
- (d) Submitting Letter of Intent. On or before the 15<sup>th</sup> day of February each year, or other deadlines as designated by the Department, the Department shall accept letters of intent to provide substance abuse services to the criminal justice population.
- (i) Each program, provider, or facility interested in applying for a contract for public funding of services shall submit a letter of intent. The letter shall set forth, with specificity, the services it intends to provide and whether it is certified under these rules to provide those services. The letter shall include relevant data and other information demonstrating the need for the services in the area it intends to serve.
- (ii) Upon receipt of the letter of intent, the Department shall forward to the applicant a standard application form prepared by the Department and notify it of the deadline for submitting the application which shall not be less than forty-five (45) calendar days after receipt of the form.
- (e) Application for Contract. The application shall contain at least the following information:
- (i) The name, address, telephone number, and e-mail address for the applicant;
- (ii) The ownership and governing body shall be fully disclosed to the Department, including the names, addresses and telephone numbers of all owners, officers, directors, controlling persons, and financial investors whether they be individuals, general and/or limited partnerships, corporate bodies, or sub-departments of other bodies;
- (iii) The clinical director of a program that employs two or more clinical staff persons shall have a minimum of three (3) years post masters experience providing substance abuse services and a minimum of two (2) years of relevant experience in substance abuse or mental health management or administration, provided, however, the Department may, upon petition of the program, approve others when deemed qualified by a combination of education and experience;

- (iv) A statement establishing the geographic area for which the applicant intends to provide services, the proposed location of all offices and facilities;
  - (v) A services delivery plan that includes, at a minimum:
- (A) A full and complete description of all services the applicant proposes to provide;
  - (B) Specific goals and objectives;
- (C) Data and other information demonstrating the need for the services in the area intended to be served, description of unmet needs, and a discussion of why those needs are not being met currently;
- (D) The program's relationship to other substance abuse services and related programs in the service area and how the applicant will collaborate with them to achieve a comprehensive system of care in the service area;
- (E) The amount of funds requested from the state and a complete disclosure of all other funding sources for the program;
  - (F) The program's plans to secure additional funding;
- (G) A description of the fiscal and information management systems the applicant plans to use;
- (H) The applicant's plan for measuring and reporting outcomes and results; and
- (I) Such other information as the applicant wishes to provide or that the Department may request.
- (vi) Along with the application, copies of the entities Articles of Incorporation and by-laws or, if the applicant is not incorporated, any other organizational documents i.e. organization policy and procedure manual, budget, organizational flow chart and references shall be submitted.
- (vii) An assurance signed by the applicant's designated legal representative that:
- (A) Certifies and discloses in accordance with the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, that no person or organization on the federal debarment list receives federal grant funds:
- (B) The program is certified to provide the services or a timetable for becoming certified;
- (C) The program will provide written materials necessary to demonstrate compliance with these rules;

- (D) The Department or entities with which it may contract will be allowed access to conduct on-site reviews; and
- (E) The program will cooperate in collecting and providing data requested by the Department in a format determined by the Department in consultation with the provider.
- (f) Contracting With Existing Programs. Providers with whom the Department has contracted during the year immediately preceding the date for submitting letters of intent to apply, shall have a preference for the issuance of contracts during the following year provided however, the preference shall apply only:
  - (i) To programs and providers who are in compliance with these rules;
- (ii) To providers who have demonstrated an ability to collaborate with other providers and programs in its service area to create a comprehensive service delivery system;
- (iii) To the specific services provided under the preceding contract, all new services proposed shall be subject to Section 5 requirements; and
- (iv) Where the Department has determined the program has effectively met the needs of its service area via a formal performance outcome measurement system.
- g) Issuance of Contract. Once the Department has determined that a contract should be issued to a community program providing substance abuse or other related services to criminal offenders, it may do so. The contract shall comply with the provisions of Section 1 and 2 of Chapter VII "The Contract For Funded Services" at page twenty-five (25) of The Rules and Regulations of the Division of Behavioral Health dated February 1984, and amended in October 1984, and February 1992.
- Section 7. <u>General Requirements for Treatment Programs</u>. The following provisions are applicable to any community program seeking to be certified under these rules to provide treatment services to the criminal justice population.
  - (a) Change of Name, Ownership, or Location: Non-transferability of certification.
- (i) The program shall notify the Department immediately, and in writing, of any proposed change in location, name, ownership, or control of the facility.
- (ii) A program that intends to change the location of the facility shall submit written notification of the new site to the Department at least thirty (30) calendar days prior to the intended date of relocation.
- (iii) Within thirty (30) calendar days of a change in ownership or control, the new owner(s) or controlling parties shall file an application for certification. This application shall have the effect of a provisional certification until such time as the Department acts upon the application. A successor certified under this provision shall be entitled to the preference set forth in Section 5 only to the extent the predecessor would have been so entitled.

- (iv) In the case of a transfer of ownership of the facility, the application of the new owner for a certification shall not have the effect of a provisional certification when the application is not filed within thirty (30) calendar days of a change in ownership.
- (v) Any notice of hearing order, or decision which the Department issues to a facility prior to a transfer of ownership shall be effective against the former owner prior to such transfer and, where appropriate, the new owner following such transfer unless said notice, order, or decision is modified or dismissed by the Department.
- (vi) No program certification shall be transferable from one person to another or from one facility to another.
- (b) Required quarterly reporting. Each program shall submit quarterly reports, including a final annual report in a form approved by the Department for the purpose of ongoing certification, monitoring, and evaluating of the program.
- (c) Deficiency Corrections Orders. Whenever any deficiency in meeting the requirements of these rules is observed, the Department shall prepare a written deficiency correction order citing every violation observed and applicable provisions of these rules, a copy of which shall be sent to the program. The deficiency correction order shall specify a date by which corrective action must be taken.

#### (d) Correction Plan.

- (i) The program shall submit to the Department a written correction plan for violations cited in a deficiency correction order within ten business days after the deficiency statement is received unless a shorter period is required by the Department.
- (ii) The correction plan shall set forth, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which full compliance will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible. The correction plan shall be signed by the program administrator.
- (iii) The Department shall review the correction plan and will notify the program of either the acceptance or rejection of the plan. An unacceptable plan must be amended and resubmitted within ten business days of the date of notice of rejection.
- (iv) Failure to make corrections pursuant to an approved corrections plan may result in appropriate action under Section 4(e) of these rules.
- (e) Legal proceedings. Every program shall report in writing to the Department any civil action that is brought against the program or any person employed by the program which relates to the delivery of the service or which may impact on the continued operation of the facility. In addition, every program shall report any criminal action that is brought against the program or any person employed by the program. The report shall be given to the Department within ten (10) calendar days of initiation of such action.
  - (f) Notification of Death, Serious Incident, Accident, or Fire.
- (i) The program shall immediately notify the Department electronically by e-mail or fax of a patient/client or staff death where death occurs on site or in treatment-

related circumstances. The program shall notify the descendent's family or next of kin as soon as possible.

- (ii) The program shall notify the Department, as soon as possible, and in writing within seventy-two (72) hours of any serious incident occurring outside the normal course of treatment, involving a patient/client or staff occurring on the premises related to the operation of the service, that requires the services of a doctor or hospital.
- (iii) The program shall notify the Department, as soon as possible, and in writing within seventy-two (72) hours of any fire, accident, or other incident resulting in significant damage to the service site.
- (g) Basic Life Support. During the hours that the service is provided, there shall be a minimum of one staff person on site who is trained and certified in Cardio Pulmonary Resuscitation (CPR) and trained in first aid techniques.
- (h) Compliance with other Federal, State, and Local laws. The program shall ensure that all its program(s), facilities, and services comply with all applicable federal, state, and local laws, regulations, and ordinances.
  - (i) Tobacco free programs.
- (i) The program shall establish written policies that ensure that the service site is tobacco-free by July 1, 2003.
- (ii) Use of all tobacco products, second hand smoke, and tobacco litter must be prohibited throughout the entire facility with no exceptions, including all indoor facilities, building entrances, offices, hallways, waiting rooms, restrooms, elevators, meeting rooms, and community areas; provided, however, a residential treatment facility may designate out-of-doors smoking areas so long as they are not in building entrances or other areas that permit contamination of occupied areas by secondhand smoke or tobacco litter. This policy applies to all employees, patients/clients, consumers, contractors, and visitors.
- (iii) Such policies shall ensure that a tobacco cessation program is available, either on site or through referral, for both patients/clients and staff.
- (j) Drug and Alcohol Testing of Patients/Clients. Each program shall adopt and enforce policies and procedures to assure patients/clients are tested frequently and at random to monitor abstinence. The policy shall include protocols reasonably necessary to assure the integrity of the process and the individual test. The frequency of testing should be based, in part, on the relapse risk posed by an individual. Programs may not charge fees for tests not actually conducted. The Department must approve the policies and procedures for such tests. If the client is under the supervision of a court, the Department of Corrections, or the Department of Family Services, the provider shall report the results to the supervising agency upon its request where the proper release is obtained.
- (k) Accessibility of treatment. Persons seeking services shall be responded to as quickly as possible. Persons seeking services shall be responded to as quickly as possible, and in any event, within twenty-four (24) hours of the person's initial contact with the program excluding weekends and holidays if services are unavailable on those days. In the event the program is unable to schedule the person for treatment within seventy-two (72) hours of the initial contact, it shall immediately attempt to refer the person to a provider

who is able to do so. If an alternative program is unavailable, the program shall promptly engage the person in a pre-treatment or education class or group, Twelve (12) Step meetings or other services within the community until such time as treatment services are available.

#### (I) Governing authority.

(i) The governing authority or legal owner of a program has the primary responsibility to create and maintain the organization's core values and mission via a well-defined and annually updated strategic plan. It assumes final authority over and responsibility for the accountability of all their programs. The authority ensures compliance with all applicable legal and regulatory requirements and supervises the recruiting of staff members that are competent and representative of the specific cultures and populations served. It advocates for needed resources to carry out the mission of the organization and actively collaborates with the management staff to ensure the success of day-to-day operations.

#### (ii) Each program shall comply with all of the following:

- (A) Each program shall have a governing body or other responsible person that is accountable for the development of policies and procedures to guide the daily operations. If a program is governed by a board of directors, minutes and records of all board of directors meetings shall be documented in accordance with the organizational by-laws. The program shall document that the program administrator has reported to the governing body or its designated representative a minimum of four times per year;
- (B) Each program shall keep, maintain, and make available to any employee or patient/client an organizational chart and written policy that describe the organizational structure including lines of authority, responsibility, communication, and staff assignment;
- (C) Each program shall establish a system of business management and staffing to assure that the facility maintains complete and accurate accounts, books, and records, including required financial, personnel, and patient/client records;
- (D) Each program shall establish a written policy stating that the service will comply with patient/client rights requirements as specified in these rules;
- (E) Each program shall establish written policies and procedures ensuring that services will be available and accessible where no person will be denied service or discriminated against on the basis of sex, race, color, creed, sexual orientation, disability, or age, in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 USC 2000d, Title XI of the Education Amendments of 1972, 20 USC 1681B1686 and s. 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, and the Americans with Disabilities Act of 1990, as amended, 42 USC 12101B12213;
- (F) Each program shall have policies that assure inclusion and respect for all persons regardless of cultural background, gender, race, religion, sexual orientation, criminal history, drug of choice, and medical status among other factors; provided, however, each program may impose reasonable programmatic restrictions that

are intended to support therapeutic goals of the program, meet restrictions of government grants or funding, or required by limitations of the program to provide services specific to a person. Program staff shall receive training on these issues. The program shall offer community education and outreach on removing the stigma associated with addiction and treatment.

- (G) Each program shall state clearly in writing the criteria for determining the eligibility and appropriateness of persons for admission to each service setting. Programs that provide services to women shall assure that first priority for treatment services is given to pregnant women. Programs shall give priority to persons, otherwise appropriate for their services, who have minor children in their legal custody and to IV drug users.
- (H) Each program shall have written policies and procedures stating that, in the selection of staff, consideration will be given to each applicant's competence, responsiveness, and sensitivity toward and training in serving the characteristics of the service's patient/client population, including gender, age, cultural background, sexual orientation, developmental, cognitive or communication barriers, and physical or sensory disabilities.
- (I) Each treatment program shall have written policies and procedures to ensure that recommendations relating to appropriate placement of patient/client's, and their continued stay, transfer, and discharge recommendations are determined to the extent reasonably possible, through the application of the current ASAM patient/client placement criteria; and
- (J) Each program shall adopt and maintain a current written statement of purpose identifying service goals, objectives, and philosophy. This statement shall be reviewed at least annually and modified as necessary, reflecting changes in the characteristics of the patients/clients served, changes within the community where the service is located, and recommendations resulting from an onsite program evaluation by the Department or its designees.

#### (m) Financial Management.

- (i) Publicly funded applicants or programs shall demonstrate financial capability to operate the facility for the period of certification and shall annually submit a complete Independent Auditor's Report and management recommendation letter to the Department. The provider shall submit the Report within thirty (30) days of its receipt.
- (ii) The audit shall show separately all revenues for substance abuse services. The Contractor shall include in the independent audit an Office of Management and Budget (OMB) A-133 single audit when federal funds received from any state agencies are collectively in excess of three hundred thousand dollars (\$300,000.00). The Contractor shall submit one copy of this audit to the Administrator of the Substance abuse Division, and shall submit two copies of this audit to the Department of Audit.
- (iii) Publicly funded programs shall keep and maintain in accordance with state requirements and its by-laws an accurate record of the finances of the facility. This financial record shall account for all state monies expended under these rules.

- (iv) Publicly funded programs shall keep on file an annual operating budget with documentation of governing body approval. Such budget shall categorize revenues by source of funds and expenses and shall include a cash flows and variance report.
- (v) Programs receiving state funds are not allowed to charge a fee to hold a space for treatment prior to the initiation of treatment.
- (vi) All programs shall establish written procedures and policies for all fiscal operations. Programs receiving public funds for substance abuse treatment services shall have policies and procedures for sliding fee arrangements with patients/clients who are served through the use of those funds. Under these policies, publicly funded programs may not refuse to offer or provide services due to inability to pay. Fees shall be determined based on program costs using a justifiable and verifiable methodology that considers family income and size. Charges shall be consistently applied to persons seeking services. The availability of a sliding fee scale shall be posted in the program facilities in a manner conspicuous to persons seeking services. The Department shall approve policies and fee schedules. In the event of patient/client non-payment, the program shall, at a minimum, prior to patient/client discharge be allowed to:
- (A) Make reasonable efforts to secure payment from a third party payment source including providing reasonable advocacy for the client with any third party payor; and
- (B) Offer a reasonable payment plan, which takes into account the patient/client's income, resources, and dependents.
- (vii) Each program shall have general and professional liability insurance in an amount deemed sufficient by its owners or governing body.
  - (n) Personnel.
- (i) A program shall have an administrator appointed by the governing authority or legal owner. The administrator is responsible for the day-to-day operation of the service delivery system, which includes a working knowledge of the programs provided, being accessible and available to patients/clients and program personnel, and integrating the mission and core values of the organization. The administrator is responsible for gathering input needed for key decision making from patients/clients, all levels of personnel, and other community stakeholders. He/she:
- (A) Ensures that the focus of service remains on the patients/clients and their families;
  - (B) Ensures sound fiscal management;
  - (C) Ensures effective and efficient resource utilization;
  - (D) Ensures development of the organization's strategic plan;
  - (E) Ensures program and facility safety for patients/clients and

staff:

- (F) Ensures evaluation and management of program performance outcomes;
   (G) Ensures demonstration of an organized system of information management;
   (H) Ensures flow of pertinent information to appropriate parties;
- and (i) F
- (I) Ensures compliance with all applicable legal, ethical, and regulatory codes and requirements.
- (ii) All programs shall conduct such background information checks which include the Wyoming Abuse and Neglect Central Registry as maintained by the Department of Family Services, the sex offender registry maintained pursuant to W.S. § 7-19-303, and such other checks as it deems prudent on all applicants for employment and persons with whom the program contracts and others, including volunteers, who have direct, regular contact with patients/clients. Each program may determine the type and scope of any background inquiry based on its needs and the duties of the person being employed. Applicants may, in the discretion of the program administrator, be provisionally employed pending the outcome of a background check.
- (iii) If a program uses volunteers, the program shall have written policies and procedures governing their activities and establishing appropriate training requirements.
  - (o) Staff Development.
- (i) A program shall have written policies and procedures for determining staff training needs, formulating individualized training plans, developing cross-training activities with other professional disciplines, and documenting the progress and completion of staff development goals. At a minimum, training shall include:
  - (A) Cultural competency:
  - (B) Rights of the persons served;
  - (C) Person and family centered service:
  - (D) The prevention of workplace violence;
  - (E) Confidentiality requirements;
  - (F) Professional conduct and ethics;
  - (G) Reporting of critical incidents and adverse events;
  - (H) Basic life support and first aid; and
  - (I) Emerging trends and best practices.
- (ii) All programs with two or more persons employed or under contract shall implement and enforce policies and procedures establishing a drug-free workplace.

These policies and procedures shall require employees, including administrators, staff members, and volunteers to undergo drug and/or alcohol testing whenever the program's governing board, legal owner, administrator, or the person's direct supervisor has reason to believe a person may be illicitly using controlled substances or abusing alcohol. When test results are found to be positive, or whenever the program otherwise learns that an employee may be abusing alcohol or controlled substances, the program shall refer the person to a treatment provider for assessment and treatment recommendations pursuant to current ethical standards regarding dual relationships (i.e. employer, co-worker and patient). In the event the person fails to fully comply with treatment recommendations, the program shall report the matter to the appropriate licensing agency. Notwithstanding any provision of this paragraph, programs shall also report to the appropriate licensing board if required to do so pursuant to a contract or rules of the licensing board. The program may terminate any person who refuses to cooperate and follow recommendations for treatment or other interventions.

#### (p) Case management/service coordination.

- (i) Programs shall have a written plan for providing dedicated case management services to patients/clients and their families in conjunction with or as a part of the patient/client's substance abuse treatment. Case management services may be provided directly or through memoranda of understanding among multiple agencies or programs. These services shall be designed to provide goal-oriented and individualized support focusing on improved self-sufficiency for the patient/client through life skill functional assessment, planning, linkage, advocacy, referral, coordination, transportation, monitoring activities, and crisis intervention and may provide other supportive services when allowed by and communicated with the treatment program. In cases involving domestic/family violence, these services shall include safety planning to identify safety factors and safe environmental options. Special emphasis will be placed on coordinating with other programs including but not limited to vocational rehabilitation and work force development services to enhance the patient/client's skill base, chances for gainful employment, and options for independent functioning.
- (ii) Programs shall collaborate with other agencies, programs, and services in the community to meet individual patient/client needs. During the course of treatment, whenever the primary clinical staff person deems clinically appropriate, he/she shall, with the informed consent of the patient/client, assemble a team including the patient/client, family members, friends, support person(s), and others from the community whose profession or resources permit them to contribute to a network of supporters to assist the patient in his or her recovery. The membership of the team will be based on the needs of the patient/client. Team members will be asked to provide specific assistance for a defined period of time. The team members who agree to do so will sign an agreement to that effect. The primary clinical staff person will have the responsibility to monitor the patient/client's progress under the plan and to make periodic adjustments as necessary.
- (iii) The clinical staff shall serve as an advocate on behalf of patients/clients to make certain that any necessary service available to the patient/client pursuant to law is provided.
- (iv) In the event a patient has been referred from another program or institution, the plan shall be developed in consideration of services previously provided the patient/client.

- (v) It is required that all programs use this section as a general framework for designing and providing case management services as a part of their core service structure. Programs shall comply with the Commission on Accreditation of Rehabilitation Facilities (CAR) Standards Manual, Section 5, Part C.
- (q) Confidentiality. Programs shall have written policies, procedures, and staff training to ensure compliance with HIAA, 42 CFR Part 2, and other legal restrictions effecting confidentiality of alcohol and drug abuse patient/client records. Each staff member shall sign a statement acknowledging his or her responsibility to maintain confidentiality of client information.
- (r) Patient/client rights. The Department recognizes the critical importance of the rights of the person served. Therefore, a program certified by the Department shall demonstrate in writing and practice that it promotes, advocates for, and safeguards the rights of all patients/clients served. Certified programs must demonstrate that they meet all requirements of their professional licensing board and the Commission on the Accreditation of Rehabilitation Facilities (CAR), Standards Manual Section 4, Part A except that the requirements of Part A, Section 2 shall apply only to programs employing two (2) or more clinical staff persons.
- (s) Treatment duration and retention. Duration and retention are major objectives of treatment. Treatment programs shall make a reasonable effort to retain patients/clients in a course of treatment for a period of time that is clinically indicated in an appropriate placement as determined by the current ASAM PPC clinical criteria. Evidence of this effort shall include written documentation of the following:
  - (i) The patient/client continues to benefit from the treatment;
  - (ii) The potential for relapse is decreased to a low-risk rating;
  - (iii) The patient/client exhibits no negative side effects from the treatment;
- (iv) Continued treatment is determined to be clinically necessary in the professional judgment of the clinical staff;
- (v) Treatment is rendered in a way that is least disruptive to the patient/client's travel, work, educational activities, ability to use supportive services, and family life;
- (vi) Hours of treatment are reasonably based on patient/client needs, which, in most cases, will include evening and weekend schedules;
- (vii) The patient/client has reasonable access to staff, particularly to the patient/client's primary clinical staff person;
  - (viii) Staff is adequately trained and culturally competent;
- (ix) The program shall have written policies regarding patient/client adherence to program rules that are signed by or, when a patient/client refuses to sign, provided to the patient/client. Violations that may result in expulsion must be approved by the Department and posted conspicuously in the program facilities. Expulsion may result only from violations that endanger others or for repetitive violations of a nature that

significantly interfere with the ability of other clients to benefit from the treatment. The rules should provide for graduated sanctions based on the nature and frequency of the violation with the overall goal being behavioral modification and retention in the program. The policies must include a process for patient/client appeals of serious sanctions or expulsion;

- (x) Services incorporate best-practice standards that are performance based;
- (xi) The program shall refer a patient/client discharged from the service to a more appropriate placement when the program is unable to meet the patient/client's needs, or when further treatment is determined to be clinically required or is requested by the patient/client and cannot be provided by the program; and
- (xii) The program shall ensure that patients/clients understand that they are responsible for complying with all aspects of their treatment, including participating in counseling sessions and that the patient/client has developed a personal plan for relapse and prevention.
  - (t) Patient/client case records.
    - (i) There shall be a case record for each patient/client:
- (A) The case record format shall provide for consistency and facilitate efficient information retrieval:
  - (B) A patient/client's case record shall include all of the following:
- (I) Consent for treatment forms signed by the patient/client or, as appropriate, the patient/client's legal guardian;
- (II) An acknowledgment by the patient/client or legal guardian, if any, that the service admission policies and procedures were explained;
- (III) A copy of the signed and dated patient/client notification that was reviewed with and provided to the patient/client and legal guardian, if any, which identifies patient/client rights and the fee agreement, and explains provisions for confidentiality and the patient/client's recourse in the event that the patient/client rights have been abused:
- (IV) Results of all pertinent and comprehensive assessment information, screening, physical assessments and psychological examinations, and diagnostic tests;
- (V) Consent forms authorizing disclosure of specific information about the patient/client;
- (VI) A completed copy of the clinical placement criteria summaries for the purpose of initial placement, continued stay or transfer;
- (VII) A current individualized treatment plan and copies of prior plans;

- (VIII) Medication records that allow for ongoing monitoring of all staff-administered medications and the documentation of adverse drug reactions;
- (IX) Medication orders specifying the name of the medication, dose, route of administration, frequency of administration, person administering, and name of the physician who prescribed the medication;
- (X) Records from referring sources, to include the name of the referral source, the date of the report, and date patient/client was referred to the service;
- (XI) Records of all referrals made by the program, including documentation that referral followup activities occurred;
- (XII) Multi-disciplinary clinical case reviews and consultation notes signed by the primary clinical staff person;
- (XIII) Correspondence relevant to the patient/client's treatment, including all letters and dated notations of telephone conversations conducted by program staff;
- (XIV) Progress notes, including informal and formal staff conferencing, in accordance with the program's policies and procedures;
- (XV) A record of services provided that includes documentation of all case management, education, individual and group counseling, and referrals;
- (XVI) Staffing notes signed by the primary clinical staff person;
- (XVII) Documentation of transfer from one level of care to another, which shall identify the applicable justification criteria from approved placement criteria, and shall include the dates the transfer was recommended and initiated; and
- (XVIII) Discharge and continuing care planning and summary documentation.
- (ii) If the provider discontinues or transfers operations to another entity, records containing patient/client-identifying information may be turned over to the replacement program if the patient/client acknowledges his/her consent in writing.
- (iii) A program shall maintain a patient/client's case record for a period of seven (7) years from the date of termination of treatment or service, except for minors whose records must be maintained until such time as the minor attains the age seven years beyond the age of majority. All patients/clients shall be asked to sign a statement at the time of intake and discharge acknowledging they have been informed of this policy. Following the prescribed period all records may be destroyed.
- (iv) A program is recognized as the custodian of the patient/client file and may release information only in compliance with 42 CFR Part 2, HIAA and applicable state law.

- (u) Case records for persons receiving emergency services. A program shall keep written documentation for every person requesting or receiving emergency services, except where the only contact made is by telephone. A case record shall include all of the following:
  - (i) The individual's name and address;
  - (ii) The individual's date of birth, sex, and race or ethnic origin;
  - (iii) Time of first contact with the individual;
- (iv) Time of the individual's arrival, means of arrival, and method of transportation if significant to treatment;
  - (v) Presenting problem;
  - (vi) Time emergency services began;
  - (vii) History of recent substance use, if determinable:
- (viii) Pertinent history of the problem, including details of first aid or emergency care given to the individual before being seen by the emergency service;
  - (ix) Description of clinical and laboratory findings, if any;
- (x) Results of emergency screening, diagnosis, or other assessment completed.
  - (xi) Detailed description of services provided;
  - (xii) Progress notes;
- (xiii) Condition of the individual at the time of transfer, referral, or discharge;
- (xiv) Final disposition, including instructions given to the individual regarding necessary followup care;
- (xv) Record of services provided, shall be signed by the physician in attendance when medical diagnosis or treatment has been provided; and
- (xvi) Name, address, and telephone number of a person to be notified in case of an emergency provided that there is a release of information signed by the patient/client that enables the agency to contact that person, unless the person is incapacitated and is unable to sign a release of information.
  - (v) Screening and assessment.
- (i) The following instruments and protocols shall be used when conducting comprehensive assessment of addiction severity, determining a diagnosis and setting the stage for appropriate placement of patients/clients into treatment for alcohol

abuse and other drug addiction. A program may choose to use other instruments in addition to those set forth in these rules.

- (A) A program shall at a minimum complete an alcohol or appropriate drug withdrawal symptoms scale instrument for screening patients/clients at risk for experiencing withdrawal symptoms or who present the historical potential for developing withdrawal symptoms and/or complications. The results of these instruments will indicate if the patient/client needs to be referred for detoxification services.
- (B) Acceptance of a patient/client for substance abuse treatment services shall be based on a documented Addiction Severity Index (ASI) assessment, a Diagnostic and Statistical Manual (DSM) diagnosis and the application of ASAM PPC criteria for appropriate placement.
- (C) The written assessment report shall state the history, diagnosis, and clinical justification for determining admission eligibility and at a minimum include:
- (I) Acute alcohol/other drug intoxication withdrawal potential;
  - (II) Medical conditions and complications;
  - (III) Emotional/behavioral conditions and complications;
  - (IV) Readiness for change indicators;
- (V) Evaluation of potential for imminent risk posed by patient/client to self and others including information on current and past partner violence and current protection orders in which the patient/client is named in any capacity;
  - (VI) Relapse/continued use potential; and
  - (VII) Current recovery environment.
- (ii) If a licensed clinical staff person identifies symptoms of an emotional, behavioral, or cognitive nature or a complication due to a co-occurring disorder in the process of assessment, the program protocol shall call for a mental health assessment to be conducted by a licensed professional practicing within the scope of their license and competency.
- (iii) If a clinical staff person identifies symptoms of a biomedical condition or complication in the process of assessment, the program service protocol shall call for referral of the individual for a physical health assessment conducted by a licensed professional practicing within the scope of their license and competency.
- (iv) Programs and providers who limit services provided to substance abuse assessment and referral shall comply with this section but do not need to comply with requirements of subsections (j), (o)(I), (p), (s), (t)(i)(B)(VII)(VIII)(IX) (XII) (XIV)(XV)(XVI) and (XVII), (v), (w), (x), (y) or (gg) of Section 6 of these rules.

- (v) Tobacco cessation programs funded by the state are not required to comply with these standards but will be required to comply with standards set forth in the contract between the provider and the State of Wyoming.
- (w) Admission. Admission of an individual to a program for treatment shall be based on the screening and assessment protocol defined in these rules, as well as additional required administrative tasks. The program shall have written policies and procedures to govern the intake process, including the following:
- (i) A description of the types of information to be obtained from an applicant before admission.
- (ii) A written consent to treat statement signed by the prospective patient/client and/or legal guardian before admission is completed.
- (iii) A method of informing the patient/client and/or legal guardian about and ensuring that the patient/client understands all of the following, and for obtaining the patient/client's signed acknowledgment of having been informed and understanding all of the following:
  - (A) The general nature and purpose of the service;
- (B) Patient/client rights and the protection of privacy provided by the confidentiality laws;
- (C) Program regulations governing patient/client conduct, the types of infractions that result in corrective action or discharge from the service and the process for review or appeal;
- (D) The hours during which services are available and after hours emergency contact information;
  - (E) Procedures for followup after discharge:
- (F) Information about the cost of treatment, who will be billed, and the accepted methods of payment if the patient/client is to be billed;
- (G) The initial assessment and preliminary treatment plan shall be clearly explained to the patient/client and, when appropriate, to the patient/client's family members during the intake process; and
- (H) The program shall provide patients/clients with information concerning communicable diseases, such as sexually transmitted infections (STI), hepatitis B, hepatitis C, tuberculosis (TB), and human immunodeficiency virus (HIV), and shall refer patients/clients with communicable disease for treatment when appropriate.

#### (x) Treatment plan.

(i) Based on the above-described assessments, a preliminary treatment plan shall be developed prior to the initiation of treatment services. The program shall follow this initial plan and implement an ongoing treatment plan that is modified at a minimum,

weekly for residential care and, at a minimum, every ninety (90) days in outpatient care. The plan shall be developed in consideration of any prior episodes of treatment received by the patient/client.

#### (ii) Content.

- (A) The treatment plan shall specify the changes in the patient/client's symptoms and behavior that are expected during the course of treatment that are expressed in terms that are measurable and understandable to the patient/client and his or her family.
- (B) The treatment plan shall contain a description of the methods and activities and their frequency that will be employed by specific persons to implement the plan.
- (C) The treatment plan shall provide specific goals for treatment for those who are diagnosed with co-occurring disorders, with input from a mental health professional if the primary clinical staff person is not otherwise cross-trained and licensed to treat mental health disorders.
- (D) For persons addicted to nicotine, the plan shall include tobacco cessation
- (iii) Contract. A treatment plan shall be signed by the primary clinical staff person, the patient/client, and where appropriate, members of the patient/client's family or supportive persons and other necessary service providers. It shall constitute a contract between the patient/client and the program.
- (y) Clinical staffing. A staffing report shall include all information relative to the patient/client's treatment including treatment goals, strategies, objectives, amendments to the treatment plan, and the patient/client's progress or lack of progress, including applicable criteria from the approved placement criteria set as the primary justification for continued stay, transfer, or discharge decisions. Staffing shall be completed for each patient/client and shall be documented in the patient/client's case record as follows:
- (i) Staffing for patients/clients in an outpatient treatment service who attend treatment sessions one day per week or less frequently shall be completed at least every three (3) months;
- (ii) Staffing for patients/clients in intensive outpatient treatment shall be completed at least every fourteen (14) calendar days; and
- (iii) Staffing for patients/clients in residential services shall be completed at least every fourteen (14) calendar days.
- (z) Clinical supervision. A program shall provide for ongoing clinical supervision for all licensed clinical staff persons as follows:
- (i) A clinical supervisor shall provide supervision and performance evaluation of clinical staff in the core functions identified in the certification standards of the applicable licensing statute; and

- (ii) A clinical supervisor shall exercise supervisory responsibility over clinical staff persons in regard to at least the following: professional development, skill assessment, performance evaluation, staff management and administration, and professional responsibility.
- (aa) Transfer of patient/client. If the program transfers a patient/client to another program or if a change is made in the patient/client's level of care, documentation of clinical justification for the transfer or change in the level of care shall be made in the patient/client's case record.
- (i) The program shall forward a copy of the transfer justification documentation to the program to which the patient/client has been transferred prior to the transfer date.
- (ii) A transfer summary shall be entered in the patient/client's case record within one week following the discharge date.
- (iii) The patient/client shall be informed of the circumstances under which return to treatment services may be needed.
- (bb) Referral. A program shall be responsible for developing and maintaining referral relationships with other programs and/or community service providers that may be helpful in providing a continuum of care necessary to fully serve patient/clients needs. The program must have written policies and procedures for referring patients/clients to other programs and/or community service providers.

#### (cc) Followup.

- (i) All followup activities undertaken by the program for a current patient/client or for a patient/client after discharge shall be done with the written consent of the patient/client.
- (ii) A program that refers a patient/client to an outside resource for additional, ancillary, or followup services shall determine the disposition of the referral.
- (iii) A program that refers a patient/client to an outside resource for additional or ancillary services while still retaining primary treatment responsibility shall request information on a regular basis as to the status and progress of the patient/client.
- (iv) The date, method, and results of followup attempts shall be entered in the patient/client's case record and shall be signed and dated by the individual making the entry. If followup information cannot be obtained, the reason shall be entered in the former patient/client's or current patient/client's case record.
- (dd) Program evaluation. The program shall have an evaluation plan that will enable it to measure the progress being made in reaching its stated goals and objectives. The evaluation plan shall be prepared annually by the program and reviewed and approved by the governing body and the Department. This plan shall address methods for evaluating performance outcomes, reviewing appropriateness of patient/client placement and care, utilization of service components, methods used for achieving compliance with the federal and state disability laws, and other process and outcome data information that would be useful in improving the provision of the services. The program shall cooperate with the

Department in the collection, reporting, and analysis of information necessary to evaluate outcomes and performance and expenditure of state funds.

- (ee) Communicable disease screening. Programs shall develop and maintain policies and procedures for client access to HIV, hepatitis B and C, and sexually transmitted infections counseling, testing, referral, and partner notification protocol in cooperation with the Department.
- (ff) Unlawful alcohol or controlled substance use. The unlawful, illicit, or unauthorized use of tobacco products, alcohol, or controlled substances at the program location is prohibited.
- (gg) Emergency shelter and care. A service that provides twenty-four (24) hour residential care shall have a written plan for the provision of shelter and care for patients/clients in the event of an emergency that would render the facility unsuitable for habitation.
- (hh) Modality Specific Requirement. The following sections are intended to establish minimum requirements for prevention services and specific modalities of treatment. Programs, providers, and facilities need only comply with the requirements of modalities or services they choose to offer in addition to the General Requirements of these rules. In the event there is determined to be a conflict between these General Requirements and the requirements of a modality-specific provision of these rules, the latter shall control.

#### Section 8. Misdemeanor Criminal Offenders.

- (a) All persons convicted of a third DUI misdemeanor within five (5) years under W.S.§ 31-5-233(e) shall receive, as part of a presentence report, a substance abuse assessment in accordance with W.S. § 7-13-1302. Any person convicted of a fourth or subsequent DUI within five (5) years for a violation of W.S. § 31-5-233(e) has committed a felony and is subject to treatment as a qualified offender under Section 8 of these rules.
- (b) In addition to meeting the General Requirements of these rules and those sections applicable to the modality of treatment offered, a program, provider or facility may be certified to provide treatment to misdemeanor criminal offenders if it provides cognitive therapy in addition to all other services. The program, must assure that individual clients receive treatment and other interventions that specifically address the person's criminal behavior(s) and thinking and reasonably protect the public. Such a program must also agree to comply with all court orders and cooperate with probation and parole agents in sharing information reasonably necessary for both to fulfill their obligations. Drug and alcohol testing shall be conducted more frequently with offenders than with other populations and the results must be reported to the supervising agency immediately. Where possible, these programs shall use restorative justice principles in the treatment plans of offenders. Clients are required to provide written consent for the exchange of information between treatment providers and the correction system.
- (c) The clinical staff providing treatment to criminal justice offenders shall demonstrate training, education and knowledge in the treatment of the criminal population using best practices.
  - (d) Programs shall develop referral sources in the areas of:

- (i) Housing;
- (ii) Employment;
- (iii) Mental Health:
- (iv) Education; and
- (v) Other services as required.

### Section 9. Felony Criminal Offenders.

- (a) The following provisions are applicable to any substance abuse treatment provider seeking to be certified as a qualified treatment provider for purposes of the AOAA for qualified offenders.
- (b) In addition to providing substance abuse treatment using best practices for the level of care offered, a provider may be certified to provide treatment to criminal offenders if it provides cognitive therapy in addition to all other services. The program must assure that individual clients receive treatment and other interventions that specifically address the individual's criminal behavior(s) and thinking and reasonably protect the public. Such a program must also agree to comply with all court orders and cooperate with probation and parole officers in sharing information reasonably necessary for both to fulfill their obligations.
- (c) The program shall provide the level of services required of the offender being referred and shall include protections, including psychological testing and frequent chemical drug testing that can be reasonably relied upon to protect the public safety and to hold the offender accountable.
- (d) The program shall provide substance abuse treatment and other necessary programs, services and monitoring to aid offenders in obtaining and holding regular employment, in enrolling in and maintaining academic courses or participating in vocational training programs, in utilizing the resources of the community in meeting their personal and family needs and in participating in other specialized treatment programs existing within the State of Wyoming. These services may be provided directly or through referrals to other programs.
- (e) Drug and alcohol testing shall be conducted more frequently with qualified offenders than with other populations and the results must be reported to the supervising agency immediately. All providers must have Health Insurance Portability Accessibility Act (HIAA) compliant authorization policies.
- (f) Where possible, these programs shall use restorative justice principles in the treatment plans of offenders.
- (g) Clients are required to provide written consent for the exchange of information between treatment providers and the corrections system.
- (h) Providers must develop a plan to come into compliance with the Chapter 16 of the rules adopted by the Department of Health.

- (i) The clinical staff persons providing treatment to criminal justice offenders shall demonstrate training, education, and knowledge in the treatment of the criminal population using best practices.
- (j) Programs shall develop and provide referral sources for qualified offenders in the areas of:
  - (i) Housing;
  - (ii) Employment;
  - (iii) Mental Health;
  - (iv) Education;
  - (v) Vocational Training Programs;
  - (vi) Psychological Testing;
  - (vii) Community resources for personal and family needs;
  - (viii) Specialized Treatment Programs;
  - (ix) Drug Testing; and
  - (x) Other services as required.

#### Section 10. <u>Payment Provisions for Services</u>.

- (a) All programs providing services to misdemeanor criminal offenders referred to in Section 7 of these rules shall establish written procedures and policies for all fiscal operations. Programs receiving public funds for substance abuse treatment services shall have policies and procedures for sliding fee arrangements with patients/clients who are served through the use of those funds. Under these policies, publicly funded programs may not refuse to offer or provide services due to inability to pay. Fees shall be determined based on program costs using a justifiable and verifiable methodology that considers family income and size. Charges shall be consistently applied to persons seeking services. The availability of a sliding fee scale shall be posted in the program facilities in a manner conspicuous to persons seeking services. The Department shall approve policies and fee schedules. In the event of patient/client non payment, the program shall, at a minimum, prior to patient/client discharge be allowed to:
- (i) Make reasonable efforts to secure payment from a third party payment source including providing reasonable advocacy for the client with any third party payor; and
- (ii) Offer a reasonable payment plan, which takes into account the patient/client's income, resources, and dependents.
- (iii) Programs receiving state funds are not allowed to charge a fee to hold a space for treatment prior to the initiation of treatment.

- (b) All programs providing services to felony criminal offenders referred to in Section 8 of these rules shall establish written procedures and policies for all fiscal operations. Programs receiving public funds for substance abuse treatment services shall have policies and procedures for sliding fee arrangements with patients/clients who are served through the use of those funds. Under these policies, publicly funded programs may not refuse to offer or provide services due to inability to pay. Fees shall be determined based on program costs using a justifiable and verifiable methodology that considers family income and size. Charges shall be consistently applied to persons seeking services. The availability of a sliding fee scale shall be posted in the program facilities in a manner conspicuous to persons seeking services. The Department shall approve policies and fee schedules. In the event of patient/client non payment, the program shall, at a minimum, prior to patient/client discharge be allowed to:
- (i) Make reasonable efforts to secure payment from a third party payment source including providing reasonable advocacy for the client with any third party payor; and
- (ii) Offer a reasonable payment plan, which takes into account the patient/client's income, resources, and dependents.
- (iii) The payment amount required of the offender for treatment shall be based on the ability of the offender to pay as established on a sliding fee scale pursuant to rules and regulations adopted by the Department of Health and may, at the discretion of the court, be paid through delayed or installment payments. In determining an offender's ability to pay the court may consider present circumstances as well as reasonable future potential.
- (iv) Programs receiving state funds are not allowed to charge a fee to hold a space for treatment prior to the initiation of treatment.